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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Y. Nagai et al.  
Title: Recombinant Sendai Virus  
Appl. No.: 09/728,207  
Filing Date: December 1, 2000  
Examiner: S. CHEN  
Art Unit: 1648  
Atty Docket No: SPO-012C

## MAIL STOP AF

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR EXTENSION OF TIME

Dear Sir:

Pursuant to 37 C.F.R. § 1.136, Applicants hereby petition that the period for replying to the Advisory Action, mailed December 16, 2004, be extended for one month, to on or before January 16, 2005.

The fee required under 37 C.F.R. § 1.17 (a) is \$120.00. The Commissioner is hereby authorized to charge this fee to Deposit Account No. 50-2101. The Commissioner is further authorized to charge any additional fees which may be required to maintain the pendency of this application and to credit any overpayment to this same deposit account.

Respectfully submitted,

Date: 12/29/04By: 

Name: Chalin A. Smith  
Title: Attorney for Applicant  
Registration No. 41,569

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PTO/SB/96 (09-33)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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# **TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)  
SPO-012C

In re Application of: Yoshituid NAGAI, et al.

Application No.: 09/728,207

Filed: December 1, 2000

For: Recombinant Sendai Virus

The owner, DNAVEC Research Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,828,138. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.



Signature

12/29/04

Date

CHALIN A. SMITH

Typed or printed name

703-549-7691

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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